

Remarks

The present Amendment is submitted in response to the Office Action dated June 19, 2009, which set a three-month period for response.

Claims 1, 2 and 4 are rejected under 35 USC §103(a) as unpatentable over No. 1,313,315 to Saint Gobain in view of US Patent No. 1,274,768 to Petro, further in view of US Patent No. 6,354,354 to Schmidt (Schmidt), still further in view of US Patent No. 4,979,552 to van der Zanden (van der Zanden) and yet still further in view of US Patent No. 5,184,660 to Jelic (Jelic).

Claim 5 is rejected under 35 USC §103(a) as unpatentable over Saint Gobain in view of Petro, further in view of Schmidt, still further in view of van der Zanden, yet further in view of Jelic and still yet further in view of US Patent No. 5,769,142 to Nicolosi (Nicolosi).

Claim 1, the sole pending independent claim, is amended hereby to incorporate the subject matter of claim 5. Claim 5 is cancelled without prejudice or disclaimer of subject matter, thereby obviating the rejection of claim 5 under section 103(a). Claims 1, 2 and 4 are pending hereinafter, where claims 3 and 6-9 were withdrawn previously.

Amended independent claim 1 now calls out a system for operating a blind (112) inside a chamber (5, 150) enclosed by panes (6, 7) surrounded by a frame (15), the frame comprising side hollow bars (20, 30, 35) connected by corner pieces (40, 50, 60), the system comprising:

a blind-roller (113) supported inside said chamber (5, 150), wherein a first

end of the blind (112) is fixedly connected to the blind roller (113);

a kinematic mechanism placed inside an oblong body (65) fixed to a corner piece (60), wherein said mechanism includes three mutually engaged pinions (78, 79, 80), a first pinion (80) of which axially connected to the blind roller (113); and

a first box (136) supported inside said chamber (5, 150) fixedly to a first end of the frame (15);

wherein said blind (112) comprises:

first pulling means (153) supported inside said first box (136), the first pulling means including a helical spring (154) wound around a spring-roller (157) axially connected to a second pinion (78) of the kinematic mechanism by the interposition of an intermediate idle third pinion (79);
and

second pulling means (173), comprising:

a mobile bar (120) fixedly connected to a second end (111) of the blind (112);

a second box (184) supported inside said chamber (5, 150) fixedly to a second end of the frame (15) opposite to a first end of the frame;

a cord (180) having one end fixed to a center of the mobile bar (120) and a second end fixed to a cord-roller (198) supported inside the second box (184);

a first pin (217) axially engaged with ~~both~~ a first end of the cord-roller (198) and orthogonally engaged by a fourth pinion (103) and worm screw (100) with a shaft (104) of a first magnetic disk (98) rotating device (95, 138) disposed within the second box (184) and matching with an internal surface of the pane (6) of enclosed chamber (5, 150); and

a threaded bushing (225) fixed to a second end of said cord roller (198) that screws into a threaded bar (224) fixed to the frame (15) for translating the said cord roller (198) axially to accommodate turns (202) made by said cord (180); and

a second magnetic disk (12) rotated by external operating means and matching, at the position of the first magnetic disk (98), with the external surface of the pane (6) of the enclosed chamber (5, 150).

Van der Zanden

While applicants agree that van der Zanden discloses a kinematic mechanism [motor 38] placed inside an oblong body [motor housing 36] fixed to a corner piece with a pinion connected to the blind roller [48], applicants do not agree that van der Zanden discloses

a first box [motor housing 36] supported inside the chamber fixedly to a first end of the frame; or

a first pulling means [electric motor 38] supported inside the first box

[motor housing 36] including a helical spring wound around a spring roller axially connected to a second pinion of the kinematic mechanism by the interposition of an intermediate idle third pinion.

That is, the oblong body [motor housing 36] of van der Zanden's electric motor unit [34] cannot be both the oblong body and the first box, as claimed, nor can the kinematic mechanism [electric motor 38] be both the kinematic mechanism and the first pulling means, as claimed.

Moreover, applicants do not find the limitation that the [motor 38] includes three mutually engaged pinions, or includes a helical spring wound around a spring roller axially connected to a second of the three pinions by interposition of the third pinion, as claimed.

Petro

While the Examiner asserts that Petro discloses a first pulling means including helical spring [15] wound around spring roller [12], axially connected to second pinion [11] of a kinematic mechanism, applicants disagree. That is, while helical spring [15] is shown wound around spring roller [12], applicants do not see any first pulling means.

For that matter, since the Examiner has previously stated that van der Zanden disclosed the first pulling means [electric motor 38] is a "first pulling means," as claimed, applicants do not see that Petro's helical spring [15] wound around spring roller [12], axially connected to second pinion [11] could operate

with the van der Zanden's [electric motor 38], without significant modification.

It is known that in order to arrive at a claimed invention by modifying the references cited art must itself contain a suggestion for such a modification. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision In re Randol and Redford, 165 USPQ 586, that prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

For that matter, even if the Petro and/or van der Zanden could be modified and combined, it is respectfully submitted that neither disclose any hint or suggestion for their combination, and thus it would not have been obvious for one skilled in the art to combine them. This principle is affirmed by the CAFC in In re Fritch, 23 USPQ 2d, 1780, 1784 (Fed. Cir. 1992), which stated that

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious ... "one can not use inside reconstruction to pick and choice among isolated disclosures in the prior art to depreciate the claimed invention"

Furthermore, first pulling means (153), as claimed, invokes 35 USC §112, sixth paragraph. Neither van der Zanden's electric motor [38] nor anything found in Petro can be said to be equivalent to first pulling means (153), as claimed, and as already stated, cannot be combined to realized the first pulling means, as

claimed but for with substantial modification.

Schmidt

While the Examiner asserts that Schmidt discloses a second pulling means [EM; M3; M4] fixed to a second end of the frame opposite a first end of the frame and a mobile bar [E0] fixed to a second end of the blind, applicants respectfully assert that Schmidt's EM is an electric motor so cannot be said to be equivalent to applicant's second pulling means (173); see Fig. 9 and 11; paragraphs [0063-0069].

Furthermore, the skilled artisan would not have considered combining Schmidt with St. Gobain, as modified by van der Zanden, as modified by Petro to realize a system including a second pulling means (173), as claimed.

Jelic

While the Examiner asserts that Jelic discloses a pulling means with box [12], cord [72] with one end fixed to mobile bar [80] and a second end fixed to cord roller [34], a first pin [48] axially engaged with a first end of cord roller [34] and a shaft [68] or rotating device [54] disposed in the second box, and a threaded bushing [36] fixed to a second end of the cord roller [34] that screws into the threaded bar [32] fixed to the frame for translating the cord roller [34] axially, and that it would have been obvious to combine same with Schmidt's electric motor [EM] to eliminate the need for electricity or batteries, applicants

respectfully disagree.

Jelic discloses an elongated headrail [12], which is not second box supported inside a chamber, as claimed.

Jelic's drive shaft [48] is not a equivalent to a first pin (217) axially engaged with a first end of the cord-roller (198) and orthogonally engaged by a fourth pinion (103) and worm screw (100) with a shaft (104) of a first magnetic disk (98) disposed within the second box (184) and matching with an internal surface of the pane (6) of enclosed chamber (5, 150), as claimed.

Jelic's cord [72] fixed to mobile bar [80], with threaded bushing [36] fixed to threaded bar [32] could not be combined with the electric motor of [EM] of Schmidt to realize applicants' second pulling means, as claimed. For that matter, the skilled artisan would not have thought to combine Jelic's cord [72] fixed to mobile bar [80], with threaded bushing [36] fixed to threaded bar [32] could not be combined with the electric motor of [EM] of Schmidt, because of the significant modification required to render the two pulling means cooperative.

Finally, claim 1 as amended now includes a second magnetic disk (12) rotated by external operating means and matching, at the position of the first magnetic disk (98), with the external surface of the pane (6) of the enclosed chamber (5, 150).

In determining the differences between the prior art and the claims, the question of obviousness under 35 USC §103(a) is not whether the differences themselves would have been obvious, but whether the claimed invention, i.e., the

subject matter *as a whole* would have been obvious to the skilled artisan. Hence, in view of all of the significant differences between the elements asserted to be found in each of St. Gobain, van der Zanden, Petro, Schmidt and Jelic, the subject matter as a whole of claim 1 (as amended) would not have been obvious to the skilled artisan at the time of invention.

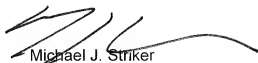
Applicants, therefore, respectfully assert that it would not have been obvious to modify van der Zanden for combination with St. Gobain, to modify Petro for combining with said combination of St. Gobain and van der Zanden, to modify Schmidt for combining with said combination of St. Gobain, van der Zanden and Petro, and to modify Jelic for combining with said combination of St. Gobain, van der Zanden, Petro and Schmidt to realize a kinematic mechanism, first box, a second magnetic disk, and a blind, as set forth in claim 1 as amended. Claims 2 and 4 depend from claim 1 and are non-obvious over the combination for at least these reasons.

Applicants respectfully request, therefore, that the rejection of claims 1, 2 and 4 under 35 USC §103(a) over St. Gobain in view of van der Zanden, further in view of Petro, still further in view of Schmidt and still yet further in view of Jelic, be withdrawn.

Accordingly, the application as amended is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim

language that will place the application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

Michael J. Striker
Attorney for Applicant(s)
Reg. No. 27,233
103 East Neck Road
Huntington, New York 11743
631 549 4700